

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13258, of 1140 - 19th Street Associates Limited Partnership, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the floor area ratio requirements (Sub-section 5301.1) to convert a squash court area to normal office or retail use in a C-3-C District at the premises 1140 19th Street, N.W., (Square 117, Lot 81).

HEARING DATE: June 18, 1980

DECISION DATE: July 2, 1980

FINDINGS OF FACT:

1. On the date the application was filed, and as of the time the case was advertised for hearing, the subject property was located in a C-3-B District. By Order No. 308, dated May 8, 1980, the Zoning Commission created a new C-3-B District and redesignated all of that property formerly known as C-3-B to C-3-C. In all substantive requests, there is no difference between the C-3-C District and what was formerly designated as C-3-B.
2. The subject property is located on the west side of 19th Street between L and M Streets, and is known as 1140 19th Street.
3. At the time of the hearing on this application, the applicant was in the process of erecting a new building on the site. The superstructure of the building was completed in June of 1979, and finishing work is underway.
4. The building as originally designed and approved for building permit contained nine stories and used the full available 6.5 floor area ratio.
5. As constructed, the building contains an area at the rear of the second floor which was proposed for use as a squash club. The area set aside for the three squash courts themselves was two stories in height. Thus, the third floor of the building does not extend into that space.

6. A representative of the applicant testified that at the time he constructed the building, he had entered into a letter of intent with a prospective tenant to lease and operate the proposed squash club. There had also been interest expressed in operating such a club by other prospective lessees. However, prior to the execution of a lease, the prospective tenant withdrew. The withdrawal was occasioned by the opening of a larger squash club in a new facility one block to the west of the subject building. The operator was thus of the opinion that a second smaller club could not economically compete with the larger club already in existence.

7. The applicant now proposes to extend the third floor of the building into the area that would have been occupied by the upper half of the squash courts. The extension would contain approximately 2,360 square feet of gross floor area. The total gross floor area of the building would then be approximately 70,330 square feet, whereas the maximum permitted would be 68,006.12 square feet. A variance of 2,323.4 square feet is thus required.

8. Both the new portion of the third floor and the existing second floor would be used for office space.

9. If the variance is denied, the applicant will use the second floor of the former squash court area as office space. A dropped ceiling will be constructed, and the applicant will incur costs of approximately \$50,000 to finish the space and rent it. The applicant had further expended approximately \$85,000 more to design and construct the building to accommodate the squash court than would have been necessary for a regular office building. The applicant would thus incur costs of approximately \$135,000 to prepare and rent the building for office space beyond what had originally been anticipated when the building was designed and constructed.

10. There is no exceptional or extraordinary condition of the property itself that creates the need for the variance. The condition necessitating the variance arises out of a business decision made by the applicant, and is not a proper basis for the granting of a variance.

11. The practical difficulty alleged by the applicant is the additional expense necessary at this time to convert the squash court space to office space. The representative of the applicant testified that even if the additional money is expended, the property will still yield a profit to its owners. The Board finds that the increased expenditures by the applicant are not a practical difficulty as set forth in the Zoning Act.

12. There was no report from Advisory Neighborhood Commission - 2B.

13. A representative of the Dupont Circle Citizens Association appeared in opposition to the application. The Association opposed the application on the grounds that a person who created his own difficulties should not be granted a variance and that the case would set a bad precedent for the future. For the reasons set forth in this order, the Board concurs with the recommendation of the Association.

CONCLUSIONS OF LAW AND OPINION:

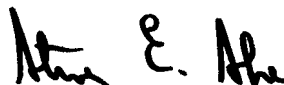
Based on the finds of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the applicant has not made the required showing. There is no condition of the property to justify the granting of the variance. Whatever condition exists was created by the actions of the property owner, and do not arise out of the property. The Board notes that it will not grant a variance solely to relieve an applicant of the burden of a poor business judgment.

The Board further concludes that no practical difficulty within the meaning of the Zoning Act and Zoning Regulations was demonstrated. The fact that additional expenditures will be required by the applicant does not establish the basis for a variance. The Board concludes that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application is DENIED.

VOTE: 5-0 (Ruby B. McZier, Connie Fortune, Leonard L. McCants, William F. McIntosh and Charles R. Norris to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 22 SEP 1980.

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."